THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.13358 of 1999

Dt:22.08.2007

Between:

M/s. Sivarama Slab Polishing Industry.

.. Petitioner

and

The Chief Engineer and others.

.. Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.13358 of 1999

ORDER:

The petitioner is a slab polishing industry. It is extended power supply through Service Connection No.407 of Ramapuram Village, Kurnool District. The premises were inspected on 17.08.1998. Alleging that the petitioner indulged in pilferage of power, a notice of provisional assessment, dated 03.09.1998, was issued, stating that the value of pilfered power is Rs.10,36,055/-. The petitioner submitted its explanation to the notice of provisional assessment. On a consideration of the same, the Superintending Engineer, second respondent herein, passed an order of final assessment, dated 24.03.1999, reducing the amount to Rs.2,08,568/-. Aggrieved thereby,

the petitioner filed an appeal before the 1st respondent. The appeal was dismissed on 30.03.1999. Hence, this writ petition.

The petitioner contends that the 1st respondent dismissed the appeal in undue haste and without considering the matter objectively. It is also contended that the 2nd respondent proceeded on the basis that the petitioner worked for 6 hours per day, whereas on account of the power cuts, the working did not exceed 5 hours per day.

In the counter affidavit filed on behalf of the respondents, the allegations made by the petitioner are denied. It is stated that the working hours of the petitioner-unit were arrived at, by taking into account the consumption of power in the previous months and that the parameters adopted for other units in the area cannot be applied to the instant case.

Heard Sri Timma Reddy, the learned counsel for the petitioner and Sri Ajay Kumar, the learned counsel for the respondents.

On noticing that the acts of pilferage were committed

by the petitioner, the 3rd respondent initiated proceedings, by issuing a notice of provisional assessment. The explanation submitted by the petitioner to the notice was taken into account by the 2nd respondent and an order of final assessment was passed on 24.03.1999. On account of the fact that the period of pilferage was restricted to 1 year and working hours to 6, the amount got reduced to Rs.2,08,568/-.

The only point, that is urged before this Court, is that the 2nd respondent took the working hours as 5 for many units around the petitioner-unit, whereas in case of the petitioner, he took at '6' hours. Though a strong attempt is made on behalf of the respondents, to justify this aspect, the allegation of the petitioner that for several other units, the working hours were taken as 5 remains unexplained. It is no doubt true that an exercise was undertaken, on the basis of the units of power consumed in the previous months. However, as long as the allegation of the petitioner that for the units around it, the working hours were taken as 5 is not denied. The differential treatment accorded to the petitioner cannot be sustained in law. On other aspects, this Court cannot interfere, since they are all disputed questions of fact.

For the foregoing reasons, the writ petition is partly allowed, reducing the amount levied against the petitioner by one-sixth and upholding the remaining part of it. There shall be no order as to costs.

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22.08.2007

JSU